

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

**Hearing Date and Time
October 4, 2023 at 10:00 a.m.**

-----X
In re:

25-16 37th AVE OWNERS, LLC,

**Confirmed Chapter 11
Case 21-42662 (JMM)**

Debtor.
-----X

**NOTICE OF HEARING TO CONSIDER APPLICATION FOR
FINAL DECREE CLOSING CASE**

PLEASE TAKE NOTICE, that 25-16 37th Ave Owners, LLC, the debtor in this confirmed Chapter 11 case (the “Debtor”), by its counsel, Shafferman, & Feldman LLP, shall move before The Honorable Jil Mazer-Marino, United States Bankruptcy Judge, at a hearing (the “Hearing”) to be held on **October 4, 2023 at 10:00 a.m.** (the “Hearing Date”), or as soon thereafter as counsel may be heard (the “Hearing Date”), for approval of the application for entry of final decree closing the above-captioned confirmed Chapter 11 case (the “Application”).

PLEASE TAKE FURTHER NOTICE, that parties wishing to participate in the Hearing on the Hearing Date, may appear at the Hearing in person, by phone or by videoconference. Those intending to appear at the hearing must register with eCourt Appearances no later than two days prior to the hearing. The phone number or video link for the Hearing will be emailed only to those that register with eCourt Appearances in advance of the hearing. Instructions for registering with eCourt Appearances can be found at <https://www.nyeb.uscourts.gov/node/2126>. If you do not have internet access or are otherwise unable to register with eCourt Appearances, you may call or email Judge Mazer-Marino’s courtroom deputy for instructions at (347) 394-1844 or JMM_Hearings@nyeb.uscourts.gov; and it is further

PLEASE TAKE FURTHER NOTICE that any objections to the Application must be in writing and shall state with particularity the grounds therefor, and, pursuant to General Order No. M-182 re: Electronic Case Filing Procedures (as amended from time to time), objections to the Fee Application (formatted with Adobe Acrobat, rider 3.0) shall be filed with the Clerk of the Bankruptcy Court, at [http:// www.nyeb.uscourts.gov](http://www.nyeb.uscourts.gov) (with a copy to Chambers), and served upon and received by Shafferman & Feldman LLP, 137 Fifth Avenue, 9th Floor, New York, New York 10010, Attn: Joel M. Shafferman, Esq.; and the United States Trustee's Office, 33 Whitehall Street, 21st Floor, New York, New York, 10004, Attention: Reema Lateed, Esq. U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014 no later than 5:00 P.M. seven (7) days prior to the Hearing Date.

DATE: New York, New York
September 18, 2023

SHAFFERMAN & FELDMAN LLP
Attorneys for the Debtor
137 Fifth Avenue, 9th Floor
New York, New York 10010
(212) 509-1802

By: /S/ Joel M. Shafferman
Joel M. Shafferman

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

**Hearing Date and Time
October 4, 2023 at 10:00 a.m.**

-----X
In re:

25-16 37th AVE OWNERS, LLC,

**Confirmed Chapter 11
Case 21-42662 (JMM)**

Debtor.
-----X

APPLICATION FOR A FINAL DECREE CLOSING THIS CASE

**TO: THE HONORABLE JIL MAZER-MARINO,
UNITED STATES BANKRUPTCY JUDGE:**

The Application of 25-16 37th Ave Owners, LLC, the debtor in this confirmed Chapter 11 case (the “Debtor”), by its counsel, Shafferman, & Feldman LLP, for entry of a final decree, a copy of which is attached hereto **Exhibit “A”**, closing the above-captioned confirmed Chapter 11 case, respectfully represents:

Background

1. The Debtor is a New York Limited Liability Company engaged in the business of owning and developing “The SMYTH”, a 53,954 GSF 7-Story mixed-use condominium project located at 25-16 37th Avenue, Long Island City, New York (the “Property”). The proposed development contained a 29-car parking garage, 15,371 NSF of retail space, and 28,998 NSF of residential space across 38 condominium units. The Property’s development was met with construction difficulties, delays and stop work orders. The project has been idle for at least 2 years.

2. As a result of its financial problems, various creditors filed mechanics liens and, later the Debtor’s construction manager and general contractor, Penta Restoration, filed suit for non-payment, The Debtor solicited additional equity investors without success. By the time COVID 19 associated lockdowns occurred. The Debtor was also in its obligations to default to Banco Popular,

its secured lender. As a result of the foregoing, the construction of the Property continued to stall.

3. On or around November 25, 2020, Popular Bank commenced a foreclosure action entitled Popular Bank v. 25-16 37 Ave Owners LLC et. al., (Case No. 722851/2020) pending in the Supreme Court of the State of New York, Queens County (the “Foreclosure Action”). On or around September 23, 2021, Popular Bank assigned all its rights under the Loan Documents and its claims in the Foreclosure Action to LIC Senior Debt LLC (“LIC Lender”).

4. On October 19, 2020 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continued to operate its business and manage its property as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. The Debtor filed this Chapter 11 case mindful that its exit scenario was going to be through a public sale of the Property. To that end, on December 15, 2021, the Debtor filed with this Court a Liquidating Plan of Reorganization (the “Plan”) and Disclosure Statement in Connection with Liquidating Plan of Reorganization (the “Disclosure Statement”) [ECF Doc. ##37 and 38]. As the means of implementation of the Plan, the Debtor, through its Court approved broker, Rosewood Realty Group, marketed the Property so as to hold a public auction conducted pursuant to Bid Procedures which were sought to be approved by a motion filed with this Court on December 17, 2022 [ECF Doc. # 41] (the “Sale Procedures Motion”).

6. This Court approved the Sale Procedures Motion on March 9, 2022, scheduling an auction sale of the Property to be conducted on April 27, 2022 [ECF Doc. # 73] (the “Auction Sale”).

7. The Auction Sale began at approximately 11:08 am (prevailing Eastern Time) on April 27, 2022, at which time LIC Senior Debt, LLC, the Debtor’s senior secured creditor

(“LIC”), restated its prior written agreement/bid to purchase the Properties for: (i) LIC’s credit bid, in the amount of \$13,200,000; (ii) \$100,000 to be used to pay holders of allowed unsecured claims pursuant to the Plan; (ii) LIC Lender’s commitment to pay all allowed administrative, priority claims, and Bankruptcy Fees pursuant to the Plan, in the approximate amount of \$210,000; and (iii) LIC Lender’s commitment to pay property taxes and other expenses either payable directly to taxing authorities or reimbursed to LIC Lender as a superiority adequate protection lien should it be advanced by LIC under the Stipulated Cash Collateral Order, in the approximate amount of \$100,000 (together the “LIC Lender Bid”) Therefore, in a report filed with this Court on April 28, 2022, the Debtor recommended that this Court accept the LIC Lender Bid [ECF Doc. # 97].

9. While the sale process was progressing, the Debtor obtained approval of the Disclosure Statement by order entered on March 16, 2022 [ECF Doc. # 82]. Thereafter, this Court entered orders on June 16, 2022 confirming the Plan and approving the Sale to LIC Lender [ECF Doc. ##107 and 108].

Debtor’s Request for a Final Decree Closing this Case

10. The Plan was substantially consummated within the meaning of section 1101(2) of the Bankruptcy Code.

11. This Court retained jurisdiction for the administration of specific matters governing or relating to the Debtor and the implementation of the Plan.

12. Upon knowledge, information and belief, all claims affected by the Plan have been surrendered or released, except as may be provided in the Plan.

13. Upon knowledge, information and belief, all litigation to be brought by the Debtor under or arising under the Plan has been completed and all distributions required pursuant to the Plan

have been made.

14. Upon knowledge, information and belief, the Plan has been fully implemented and administered in accordance with the terms of the Plan, §350(a) of the Bankruptcy Code and Rule 2015(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

15. Attached hereto as **Exhibit "B"** and incorporated herein and made a part hereof is this Court's Form entitled "Bankruptcy Closing Report" which, upon knowledge, information and belief, reflects, inter alia, the fees and expenses in connection with the administration of the Debtor's Chapter 11 Case.

WHEREFORE, the Debtor respectfully requests the issuance by this Court of a Final Decree pursuant to Bankruptcy Rule 3022 closing the Debtor's Chapter 11 Case and such other and further relief as the Court may deem just and proper.

DATE: New York, New York
September 18, 2023

SHAFFERMAN & FELDMAN LLP
Attorneys for the Debtor
137 Fifth Avenue, 9th Floor
New York, New York 10010
(212) 509-1802

By: /S/ Joel M. Shafferman
Joel M. Shafferman

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

**Hearing Date and Time
October 4, 2023 at 10:00 a.m.**

-----X
In re:

25-16 37th AVE OWNERS, LLC,

**Confirmed Chapter 11
Case 21-42662 (JMM)**

Debtor.
-----X

FINAL DECREE

Upon the application of 25-16 37th Ave Owners, LLC, the debtor in this confirmed Chapter 11 case (the "Debtor"), by its attorneys, Shafferman & Feldman LLP, seeking entry of an Order granting a Final Decree in this case; and it having been represented and it appearing that the Debtor's estate has been fully administered and the distributions required pursuant to the Liquidating Plan of Reorganization (the "Plan") having being made to creditors at their last known addresses; and it also appearing that notice of motion and application and service of a copy thereof was duly and timely made upon the Debtor and his counsel, the Office of the United States Trustee, and all creditors, and that no objection was made to granting the relief requested therein, and sufficient cause appearing to me therefor, it is

ORDERED, that the above-captioned Chapter 11 Case be, and it hereby is, closed;
and it is further

ORDERED, that the Debtor shall pay any outstanding quarterly fees owed to the Office of the United States Trustee, pursuant to 28 U.S.C. §586(e)(2), in connection with the above-captioned Chapter 11 Case on or before ten (10) days after the entry of this Final Decree.

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
Bankruptcy Closing Report
Chapter 11**

DEBTOR NAME: 25-16 37th Ave Owners, LLC

CASE NO.: Case No.: 16-42657 (JMM)

To the best of my knowledge and belief, the following is a breakdown in this case:

FEES AND EXPENSES (From case inception):

\$87,795.00 FEE for ATTORNEY for DEBTOR

\$2,735.51 EXPENSES for ATTORNEY for DEBTOR

\$80,000 OTHER PROFESSIONAL FEES and ALL EXPENSES

N/A TRUSTEE FEE (if applicable)

N/A ATTORNEY for TRUSTEE (if applicable)

X PLAN CONFIRMED

PLAN NOT CONFIRMED

STEPS TAKEN TO CONSUMMATE PLAN:

X distributions under the plan completed

**DATE: New York, New York
September 18, 2023**

**SHAFFERMAN & FELDMAN LLP
Attorney for 25-16 37th Ave Owners, LLC
137 Fifth Avenue, 9th Floor
New York, New York 10010
(212) 509-1802
By: /S/ Joel M. Shafferman
Joel M. Shafferman**